

REMARKS

Reconsideration and allowance of this application, as amended, is respectfully requested.

This Amendment is in response to the Office Action dated June 2, 2004. By the present Amendment, claim 1 has been amended for clarification and new claim 2 has been provided to further define the invention.

Reconsideration and removal of the rejection of claim 1 under 35 U.S.C. § 101 "as claiming the same invention as that of claim 1 of prior U.S. Patent No. 6,717,434" is respectfully requested. Regarding this, the Office Action goes on to state "Applicant is trying to broaden an already allowed claim 1 of U.S. Patent No. 6,717,434." Applicants respectfully submit that this is not a proper rejection under 35 U.S.C. § 101 since claim 1 of the present application is not the "same invention" as that of claim 1 of prior U.S. Patent No. 6,717,434. Regarding this, the following comments are provided.

Referring to MPEP § 804 under the heading "A. Statutory Double Patenting – 35 U.S.C. § 101" on page 800-20 of the MPEP, it is stated in the first paragraph "same invention means identical subject matter." In the present instance, claim 1 of the parent U.S. Patent No. 6,717,434 includes a limitation of "a clock generator circuit for the other logic circuit" which is not found in claim 1 of the present application. As such, claim 1 of the present application is clearly not "identical subject mater" with regard to claim 1 of the parent U.S. Patent since claim 1 of the parent U.S. Patent includes a clock generator circuit which is not found in the present claim 1. Therefore, obviously, claim 1 of the present

application and claim 1 of the parent U.S. Patent are directed to different subject matter, at least with regard to the clock generator circuit.

In the Office Action, the position appears to be taken that it is not permitted to provide a broader claim in a continuation application than the claim already allowed in a parent patent. It is respectfully submitted that there is nothing in the patent laws, rules or MPEP with regard to double patenting that prohibits a applicant from providing a broader claim in a continuation application than that already issued in a parent patent. Obviously, this is frequently done by applicants who agree to accept more limited claim coverage in a parent application to expedite the issuance of a protective patent, followed by pursuing broader claims in a continuation application. In certain instances, this might serve as the basis for a proper obviousness type double patenting rejection, but certainly does not serve as a basis for a "same invention" type double patenting rejection. As notes above, and in the MPEP § 804, "same invention" requires the subject matter between the claims in question to be identical. Since this is clearly not the case in the present instance, reconsideration and removal of this rejection is respectfully requested.

Entry and allowance of claim 2, together with claim 1, is also respectfully requested. Claim 2 clearly provides a further distinguishing feature, which is also not found identically in the claims of the parent patent.

If the Examiner believes that there are any other points which may be clarified or otherwise disposed of either by telephone discussion or by personal interview, the

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Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to the Antonelli, Terry, Stout & Kraus, LLP Deposit Account No. 01-2135 (Docket No. 500.40705CX1), and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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